1944 **File No.** Bom. Cattle, Goat and sheep Trade II/44

Legal Department

B **BRANCH**

Subject:—

Rules and Notifications under the Bombay Cattle, Goat and sheep Trade licensing Order, 1944

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L.33.B

Office of the R.L.A.

A revised Order in place of the draft Order at p.95 is sent herewith. It is understood that the first class of cattle in the draft Order is intended to cover only male cattle. This has been made clear in the revised Order. This first class is wider than the first class suggested by the Government of India, since it covers also male cattle suitable for breeding purposes.

2. A definition of "slaughter" has been added.

3. Revised draft of the draft Order at pp.81 to 86 is sent herewith.

4. It is presumed that the Order will apply to the whole Province and there is no need to make provision for applying it to local areas by notification. In view of the provisions regarding sale at controlled prices, partial application of the Order would lead to complications.

5. The position of agents and the like under the Order is not clear. As the Order stands, an agent could argue that only his principal requires a license. In the event of a prosecution of an agent for unlicensed buying it might be argued that purchase by an agent was really purchase by the principal and therefore the agent had committed no offence under the Order. There are English cases which support this argument. On the other hand, to provide that agents as well as principals should obtain licenses would mean that in respect of the same cattle two licenses would issue. For administrative purposes it seems necessary that while the cattle should be covered by a license, there should not be more than one license in respect of the same cattle ; duplication of licenses would make the task of the Licensing Authority much more difficult. Without knowing accurately the practice of the trade, it is impossible to say what would be the best provision regarding agents and principals or what could be the best definition of dealer. It may be feasible to provide that while agents do not require to take out a license for themselves, they cannot purchase except under and in accordance with the principal's license. But this point needs consideration by R.D.

P.T.O.

6. It may be possible to evade the definition of "dealer" by selling the cattle not for slaughter but as carcases. However to add the words "as carcases" might mean duplication of licenses in respect of the same cattle.

Clause 4(2) of the revised draft .- The Licensing Authority has been given power to alter the license in respect of the area and the monthly quota. R.D. may decide whether this is necessary.

Clause 6 of the revised draft.- It is presumed that the first three classes in this clause should be the same as the classes in the other draft Order R.D. No.9257/24. The revised draft does not give any power to Government to ban the purchase of any class of sheep or goats. As the Order stands, that can only be done by excluding certain areas from the licenses while specifying the purchasing areas.

Clause 10 of the revised draft.- The circumstances in which the Licensing Authority may suspend or cancel a license have been considerably widened. A provision for appeal has also been inserted in this clause. R.D. may see whether this meets their requirements. Neither the Licensing Authority nor Government will have power to cancel a licence in any circumstances other than those provided for in this clause.

Clause 12 of the revised draft.- It is not clear what the officer is to do with any cattle, goat or sheep which he has seized.

It is odd to define the "Licensing Authority" as an authority appointed by the Provincial Government and then to make the order of appointment a provision of the Order. Therefore clause 13 of the draft has been excised. An order under clause 2(h) of his Order may be made separately appointing the Director of Veterinary Services.

Draft Froms A and B on pp.85 and 86, as amended, are sent herewith. In view of the provisions in the revised Order clause 3 of Form B is unnecessary and has been excised.

Sd/- P.N.M.
9/10/44.

Remembrancer of Legal Affairs.

U.R. to R.D.No. 7041, dated the 10th October 1944.

4-Cs.

M.V.V.
12/7.